So. R. R. Co., 137 Mass. 33; or if the contract fixed a maximum value of the property, and it was agreed that in case of loss the recovery should not exceed that value, this is equally binding. *Alair v. Northern Pac. R. R. Co.*, 53 Minn. 160; *Hart v. Penn. R. R. Co.*, 112 U. S. 331. But the decisions are practically uniform in holding that a carrier cannot by special contract limit its liability to an arbitrary sum, fixed without reference to the value of the property. *Ullman v. Chicago & Northwestern R. R. Co.*, 112 Wis. 150; *Louisville & Nashville R. R. Co. v. Owen*, 93 Ky. 201.

CONTEMPT—DISOBEDIENCE TO DECREE—ORAL ADVICE OF JUDGE.—LEWIS V. BRENNAN, JUDGE, 117 N. W. 279 (IOWA).—Where a decree requires a building to be closed, as a nuisance, as against its use for all purposes, *held*, that the owner, in breaking into and using building, is guilty of contempt, though the judge orally advised the sheriff to close it temporarily only.

Judges merely as judges cannot exercise judicial power. *Toledo, A. A. & G. T. R. Co. v. Dunlap*, 47 Mich. 456; *Whitlock v. Wade*, 117 Iowa 153. The laws fix the time, place, and manner in which judges shall sit as a court. *Blair v. Reading*, 99 Ill. 600. It is the duty of a judge to command, not to advise, and his orders must be reduced to writing. *Savings Bank v. Ball-bearing Chain Co.*, 118 Iowa, 688; *In re Thomas's Estate*, 26 Col. Supp. 110. A reliance upon his oral advice and verbal directions will not excuse a contempt for disobeying his decrees. *Capet v. Parker*, 3 Sandf. 662; *Tremain v. Richardson*, 68 N. Y. 67.

DAMAGES AND MUTILATION OF DEAD BODY—MENTAL SUFFERING.—KYLES V. SOUTHERN R. CO., 61 S. E. 278 (N. C.).—*Held*, that where the rights of one legally entitled to the custody of a dead body are violated by mutilation of body or otherwise, the party injured may in an action for damages, recover for the mental suffering caused by the injury.

A widow's primary right to bury the body of her deceased husband is generally recognized. *Hackett v. Hackett*, 18 R. I. 155; *Weld v. Walker*, 130 Mass. 422. And a wanton or negligent mutilation of the body is actionable. *Doxtator v. Chicago & W. Mich. R. Co.*, 120 Mich. 596; *Burney v. Children's Hospital*, 169 Mass. 57. Some courts hold that the violation of this right naturally contemplates injury to the feelings and allow compensation to be recovered for the mental suffering. *Larson v. Chase*, 47 Minn. 307; *Rcinham v. Wright*, 125 Ind. 536. This rule seems to be followed only in those states which hold that damages for injury to the feelings alone is sufficient ground for recovery. *Wells Fargo Co.'s Express v. Fuller*, 13 Tex. Civ. App. 610; *Chapman v. Western Union*, 90 Ky. 265. The rule is repudiated in other states. *Long v. Chicago, R. I. T. Co.*, 15 Okl. 512; *Pa. R. R. Co. v. Butler*, 57 Pa. St. 335.

EMINENT DOMAIN—RIGHTS OF PROPERTY OWNERS—WHEN ACQUIRED.—SIMPSON V. BERKOWITZ, 110 N. Y. SUPP. 485. Where public officers passed a resolution condemning lands, *held*, that property owners acquire no vested rights in such proceedings until the report of the Commissioners of Appraisal is finally confirmed.

While some states hold that the confirmation of the commissioners'

report in condemnation proceedings completes the taking, and that mutual rights are thus vested,—*Clough v. Unity*, 18 N. H. 75; *Fischer v Catiwissa R. Co.*, 175 Pa. St. 554.—by far the greater number of authorities hold that the taking is not complete, and the mutual rights are not vested until payment or the security thereof has been given, or until there has been an entrance into possession. *Baltimore v. Musgrave*, 48 Ind. 272; *Carson v. Hartford*, 48 Conn. 68; *Chicago v. Barbian*, 80 Ill. 482. Nor does a judgment assessing the amount of damages to be paid, bind the party seeking the land to take the same and pay the damages assessed. *Gear v. Dubuque & S. C. R. Co.*, 120 Iowa 523.

FIXTURES—LANDLORD AND TENANT.—OGDEN V. GARRISON, 117 N. W. 714 (NEB.).—*Held*, that the execution of a new lease in which the tenant did not expressly reserve fixtures erected by him under a preceding lease, does not deprive him of the right to remove them.

The above decision is not in harmony with the weight of authority holding that, if a tenant enters into a new lease, making no mention of a former lease and with no reservation for removal of fixtures, placed under the former lease, his right to remove is thereby precluded. *Spencer v. Commercial Co.*, 30 Wash. 520; *Williams v. Lane*, 62 Mo. App. 66. And this general rule is applied even when the possession is continuous. *Loughran v. Ross*, 45 N. Y. 792; *Watriss v. National Bank of Cambridge*, 124 Mass. 571. But in accord with the case at hand, some courts have ruled, that if a tenant, having fixtures on the premises, secures a new lease in the nature of an extension of the old lease, and the new lease reserves no right to remove fixtures, the landlord had no right to restrain removal at or before expiration of second lease. *Radey v. McCurdy*, 209 Pa. St. 306. In another instance it was held, that if a tenant accepts a new lease from a subsequent purchaser while in possession which failed to reserve fixtures, his right of removal was not lost. *Daly v. Simonson*, 126 Ia. 717.

HUSBAND AND WIFE—TORTS BY HUSBAND AGAINST WIFE—LIABILITY.—SYKES V. SPEER, ET AL, 112 S. W. 422 (TEX.).—*Held*, that a wife cannot sue her husband for torts committed by him against her person or reputation while the marriage relation exists.

At common law, a wife could not sue her husband for any injury to her person, committed during their coverture. *Freethy v. Freethy*, 42 Barb. 641. Nor would an action against him lie for an injury to her reputation. *Mink v. Mink*, 16 Pa. Co. Ct. 189. And the right to sue is not conferred upon wife under modern statutes. *Longendyke v. Longendyke*, 44 Barb. 367. Public policy forbids that a wife should have a right to sue husband, and therefore, unless expressly granted in direct terms by statute, the common law rule is in force. *Main v. Main*, 46 Ill. App. 106.

NEGLIGENCE—IMPUTED NEGLIGENCE—DRIVER OF VEHICLE.—CAMINEZ V. BROOKLYN Q. C. & S. R. Co., 111 N. Y. SUPP. 384. *Held*, that where plaintiff was riding with the driver of a furniture truck at the time the plaintiff was injured in a collision between the truck and one of the defendant's street cars, plaintiff was not chargeable with the negligence of the driver, but was bound to show that he exercised the care the situation demanded.